



**BYRON  
SHIRE  
COUNCIL**

# **DRAFT Policy**

## **Disposal of Assets**

**20192023**

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## Information about this document

Date Adopted by Council	16 July 2015
Resolution No	15-307
Document Owner	<a href="#">Director Corporate and Community Services</a>
Document Development Officer	<a href="#">Strategic Procurement Coordinator</a> <a href="#">Manager Corporate Services</a>
Review Timeframe	4 years
Last Review Date	<del>20 February 2019</del> <a href="#">27 April 2023</a>
Next Scheduled Review Date	<del>September 2020</del> <a href="#">27 April 2027</a>

## Document History

Doc No.	Date Amended	Details/Comments eg Resolution No.
E2015/31488		Draft policy reported to Council 16/7/15
E2015/58593	4/9/ <a href="#">2015</a>	Adopted following exhibition period (no submissions received)
E2019/12789	20/2/ <a href="#">2019</a>	Minor amendment to update the name of the Councillor Expenses and Facilities Policy referred to in this document
<a href="#">E2022/97076</a>	<a href="#">01/03/2023</a>	Draft for Executive Team: Inclusion of detail at 2.2 regarding resolution 17-585 and administrative changes
	<a href="#">27/04/2023</a>	<a href="#">Draft for Council as endorsed by Executive Team: Inclusion of detail at 2.2 regarding resolution 17-585 and administrative changes</a>

## Further Document Information and Relationships

Related Legislation	<i>Local Government Act <a href="#">1993</a></i> <i><a href="#">Local Government (General) Regulation 2021</a></i>
Related Policies	Councillor Expenses and Facilities Policy Procurement and Purchasing Policy <a href="#">Code of Conduct</a>
Related Standards, Procedures, Statements, documents	<a href="#">Procurement Guide 2020</a> <a href="#">Asset Disposal or Donation Form (E2022/97138)</a>

Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.

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# 1. Introduction

## 1.1 Objectives

To provide a systematic, transparent and accountable method for the disposal of Council-owned assets in accordance with Council's Code of Conduct, Council policies and all appropriate legislation and accounting standards.

## 1.2 Scope

This Policy covers all physical Assets owned by Council except for Land and Buildings.

This Policy excludes:

- Disposal of goods which are not owned by Council;
- Disposal via sale or donation of any item that poses a threat of physical or environmental harm;
- Disposal of Unserviceable Assets -(these are regarded as waste)

Equipment provided to the Mayor or Councillors under the Councillor Expenses and Facilities Policy may be purchased by the Mayor or Councillor in accordance with that Policy.

## 1.3 Definitions

List here all the terms and acronyms used in the Policy, and their definitions. List in alphabetical order.

Policy acronym	Definition
<i>Asset</i>	Any physical item that the Council owns.
<i>Asset Value</i>	The approximate value of the asset in its current condition.
<i>Manager of the Asset</i>	The Manager responsible for the asset.
<i>Unserviceable Assets</i>	Assets which are worn out or broken and <u>or are</u> no longer able to be used for the purpose for which they are intended
<i>Land</i>	Freehold land owned by Council
<i>Buildings</i>	Buildings on freehold land owned by Council.

## 2. Statement

### 2.1. Overview

This Policy gives direction for the decommissioning and disposal of Council-owned Assets. It covers Council's requirements and obligations in the disposal process and will inform the Manager of the Asset of their responsibilities in the disposal process.

This Policy:

- Defines the methods by which Assets are to be disposed of;
- Demonstrates Council's accountability and responsibility to ratepayers;
- Seeks to be fair and equitable to all parties involved;
- Enables all processes to be monitored and recorded;
- Seeks to ensure probity, accountability and transparency in all disposal processes;
- Seeks to ensure the best outcome is achieved for Council; and
- Applies to all Council officers and Councillors.

### 2.2. Policy Principles

Council must have regard to the following principles when disposing of its Assets:

- Open and effective competition
- Obtaining best value for money. This is not restricted to price alone and must include consideration of
  - The contribution to Council's long-term financial and strategic management goals;
  - Any relevant direct or indirect benefits to Council, both tangible and intangible;
  - Efficiency and effectiveness;
  - The costs of various disposal methods;
  - Internal administration costs;
  - Risk exposure; and
  - Value of any associated environmental benefits.
  - Council's sustainability principles

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

Council must not knowingly donate or receive funds from the disposal of Assets to companies who gain financial benefit from Australia's Offshore Detention Centres or who contract for the development or operation of the Carmichael Mine, or otherwise has ties to the Adani Group (now known as Bravus Mining and Resources) as per Council Resolution 17-585.

## 3. Disposal of assets

### 3.1. Considerations prior to the decision to dispose

Before any Asset is disposed of, the relevant Manager of the Asset should ensure that disposal is appropriate and must consider the following, where applicable:

- The usefulness of the Asset
- The current market value of the Asset
- The annual cost of maintenance of the Asset
- Any alternative use of the Asset
- Any duplication of the Asset or the service provided by the Asset
- Any impact the disposal of the Asset may have on the community
- Any cultural or historical significance of the Asset
- The impacts (positive or negative) the disposal of the Asset may have on Council's operations
- Council's long-term plans and strategic direction
- The remaining useful life of the Asset
- The results of any community consultation
- Any restrictions on the proposed disposal
- Any other relevant Council policies or legislative requirements.

### 3.2. Disposal Methods

It is the responsibility of the Manager of the Asset to select, in accordance with this Policy, the most appropriate disposal method. Authorisation of the disposal method must be in accordance with section 3.4 below.

The following disposal methods may be utilised depending on the estimated receipt of the contract value:

- Trading in equipment to suppliers (if the estimated value of the trade-in contract is \$250,000 or greater the tendering provisions of the Local Government Act 1993 may apply)
- Seeking expressions of interest from potential buyers (refer to Local Government (General) Regulation 2021)
- Seeking bids through an open tender (refer to Local Government (General) Regulation 2021)

- Public auction eg Grays Online (exempt from tendering provisions of Local Government Act s55(3)(f))
- Destroy and dump – the destruction and dumping of an Asset must be witnessed by at least two staff members, or a professional destruction company may be engaged as appropriate.
- Sale via Byron Resource Recovery Centre Second Hand Shop or library books via the RTRL libraries
- Donation to a not for n-profit organisation.

Selection of a suitable disposal method will include consideration of the following factors:

- The public demand and interest in the item
- The method most likely to return the highest revenue
- The value of the Asset
- The costs of the disposal method compared to the expected returns
- Compliance with statutory and other obligations.

~~Councillors and Council employees are not permitted to purchase Assets unless the purchase is via one of the following:~~

- ~~• Open tender process~~
- ~~• Public auction~~
- ~~• Purchase from the Second Hand Shop at the advertised price.~~
- ~~• Purchase from a RTRL library at the advertised price.~~
- ~~• In accordance with the Councillor Expenses and Facilities Policy.~~

### 3.3. Requirements for Donation of Assets

Donations of surplus or redundant Assets, in response to a request for a donation, may only be made with the authority of a member of the Executive Team, or a Council resolution, and only after exploring all avenues for ~~recouping~~ recovering a fair value for the Council ~~or including whether there is~~ any alternative use for the Asset within other areas of Council.

In ~~considering any responding to any~~ request for donations of Assets, Council staff ~~should keep in mind~~ must consider the following:

- Equitable treatment of cCommunity groups ~~should receive equitable treatment~~ to avoid possible claims of bias;
- A check should be made to ensure the community group is not a disguised business operation providing funds or remuneration to the principals (check the ABN and trading status).

- A check should be made to ensure that the group is not-for-profit, and that the intended use of the Asset is non-commercial.
- Where the donation is seen as appropriate, but there is a potential claim of bias, the matter should be referred to the relevant Director of the Asset Manager by whom the asset is managed, and advice obtained from Legal Services;
- The community group must remove the Asset(s) themselves, and at no cost to Council.

### 3.4. Authority to dispose of assets

Written approval of the Asset disposal method must be obtained by an officer the Manager with responsibility for the Asset<sup>[KA1]</sup> ~~with the delegation to dispose of the Asset:~~

Additionally, the following requirements apply:

- Disposal of all Assets with a value over \$150,000<sup>[KA2]</sup> (GST inclusive) must be by public tender unless resolved otherwise by a meeting of the Council.
- Only Assets with a value of less than \$1,000 (GST inclusive) can be sold via Council's Second-Hand Shop or libraries.
- All donations must be approved by a Director, or if valued between \$50,000 and \$150,000, by the General Manager. Assets with a value of \$150,000 (GST inclusive) or more cannot be donated.

If there is any doubt about the value of the Asset, consideration should be given to obtaining an independent valuation prior to disposal.

### 3.5. Preparing Assets for Disposal

Prior to disposing of the Asset, the Manager of the Asset must carry out a check to ensure the Asset does not contain any of the following:

- Additional items not intended for sale
- Confidential documents, records, files or papers, either physical or electronic
- Documents on Council letterhead
- Hazardous materials or substances.

Any hard drives that have contained Council-operated software must be physically destroyed.

Any Council logos must be removed or obliterated prior to disposal, including from clothing.

Spare parts held for an item that is to be disposed of should also be disposed of in one parcel with the Asset and form part of the value of the Asset.

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### 3.6. Buyer's Risk

Irrespective of the disposal method applied, all prospective buyers must be advised in writing that items are disposed of with any faults, at the buyer's risk ("as is where is"). Buyers are to rely on their own investigations regarding the condition and function of the items and Council will not be held responsible for any repairs or maintenance of the Asset.

Purchasers or donation recipients of Assets must be required to agree in writing that before the purchase or receipt of any Asset that no warranty is given or implied by the Council in respect of the suitability and condition of the Asset for the purchaser or recipient and that Council will not be responsible for the Asset in any respect following the sale.

### 3.7. Notifying of the Disposal of Assets (including donations)

Upon disposal or donation of the Asset, the Disposal of Asset Form must be completed by the Manager and filed in Council's record management system and emailed to Finance.

The Asset Disposal or Donation Form and any associated records following records must be retained including:

- Decision to dispose of the Asset
- Asset value including any independent asset valuation records
- Who approved disposal of the Asset
- Method of disposal utilised.

If the Asset is registered on Council's Asset Register, immediately following the disposal of the Asset it is the responsibility of the Manager of the Asset to notify ~~the relevant manager to have the~~ the Manager Assets and Major Projects of the disposal within three business days to enable the Asset Register to be updated ~~to ensure the register is updated within three working days.~~

## 4. Records

All records associated with disposal of the Asset, including reasons for utilising a specific disposal method must be stored in Council's electronic records management system.

~~The following records must be retained:~~

- ~~Decision to dispose of the Asset~~
- ~~Asset value including any independent asset valuation records~~
- ~~Who approved disposal of the Asset~~
- ~~Method of disposal utilised.~~

## 5. Assets disposal flowchart

